



## Town of Fountain Hills

16836 East Palisades Boulevard  
PO Box 17958  
Building "C"  
Fountain Hills, AZ 85269  
(602) 837-2003 Voice  
(602) 837-3145 Fax

**Date:** September 23, 1997

**To:** Tom Mennie

**From:** Betty Brannon

**No. of Pages** [1]  
(inc. cover sheet)

If all pages are not received, please call 837-2003, ext. 130

**Re:** AG Contract No. KR96-1836-TRN  
ADOT ECS File No. JPA 96-116  
Project No. CM-FTH-O(5)P  
TRACS No. S S402 01C  
Project: Install Bike Lane Signing & Pavement Markings

In reviewing the agreement I find in Section III (2) that the agreement shall remain in force and effect until completion of the work.....

My question is: What is our absolute "drop dead" date for completion of the work? Our street department wants to get this on their work schedule but we certainly do not want to run out of time. Thanks for your help.

AG Contract No. KR96-1836-TRN  
ADOT ECS File No. JPA 96-116  
Project No. CM-FTH-O(5)P  
TRACS No. S S402 01C  
Project: Install Bike Lane Signing  
and Pavement Markings

INTERGOVERNMENTAL AGREEMENT  
BETWEEN  
THE DEPARTMENT OF TRANSPORTATION  
AND  
TOWN OF FOUNTAIN HILLS, ARIZONA

THIS AGREEMENT is entered into 25 OCTOBER, 1996,  
pursuant to the provisions of Arizona Revised Statutes Section 11-  
951 through 11-954, as amended, between the STATE OF ARIZONA,  
acting by and through its DEPARTMENT OF TRANSPORTATION, (the  
"State"), and the TOWN OF FOUNTAIN HILLS, acting by and through  
its MAYOR and TOWN COUNCIL (the "Town").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-108 and 28-112 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The Town is empowered by Arizona Revised Statutes Section 48-572 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the Town.

3. Congress has authorized appropriations for, but not limited to, the design and construction of streets and primary, feeder and farm-to-market roads; the replacement of bridges; the elimination of roadside obstacles; and the application of pavement markings.

4. Such project within the boundary of the Town has been selected by the Town; the field survey of the project has been completed; and the plans, estimates and specifications have been prepared and, as required, submitted to the Federal Highway Administration ("FHWA") for approval.

NO. <u>21129</u>
FILED WITH SECRETARY OF STATE
Date Filed <u>10/25/96</u>
<u>Jane Lee Hull</u> Secretary of State
By <u>Vicky Marnwood</u>

5. The only interest of the State in this project is in the acquisition of federal funds for the use and benefit of the Town by reason of federal law and regulations under which funds for the project are authorized to be expended.

6. The work embraced by this agreement is to be administered by the Town, and the estimated cost is as follows: Install Bike Lane Signing and Pavement Markings

Estimated Project Cost (includes 15% CE)	\$ 20,148.00
Federal Aid Funds @ 94.3%	\$ 19,000.00
Town of Fountain Hills Funds @ 5.7% of \$20,148.00	\$ 1,148.00
Total Town Funds	\$ 1,148.00

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

## II. SCOPE OF WORK

1. The State shall submit a program containing the aforementioned project to FHWA with the recommendation that it be approved for construction.

a. If such project is approved for construction by FHWA and the funds are available for construction of the project, the Town with the aid and consent of FHWA will proceed to construct the project, at the agreed upon unit prices, such project to be performed, completed, accepted and paid for in accordance with the approved plans and specifications. The State will enter into a Project Agreement with FHWA covering the work embraced in said construction and will request the maximum federal funds available.

b. Should unforeseen conditions or circumstances increase the cost of said work required by a change in the extent or scope of the work called for in this agreement, the Town shall be obligated to incur any expenditure in excess.

2. Prior to construction, the Town shall set aside sufficient funds in the amount determined to be necessary to match federal funds in the ratio required.

3. The Town shall acquire, without cost to the State, the necessary right-of-way and hereby certifies that all necessary rights-of-way have been acquired.

4. The Town shall remove from the proposed right-of-way all obstructions or unauthorized encroachments of whatever nature, either above or below the surface of the roadway, and hereby certifies that all obstructions and encroachments have been removed therefrom, prior to the start of construction.

5. The Town shall not permit or allow any encroachments, except those authorized by permit, upon, or private use of, the right of way. In the event of any unauthorized encroachment or improper use, the Town shall take all necessary steps to remove or prevent any such encroachment or use; failing in which the State shall have the right to proceed with the removal or prevention thereof, the cost of such removal or prevention to be borne by the Town.

6. Upon completion of construction, the Town shall provide maintenance unless assumed by another governmental entity.

7. The Town shall mark and sign school crossings and railway-highway grade crossings in accordance with the requirements of the current edition of the Manual on Uniform Traffic Control Devices for Streets and Highways.

8. By such regulation as it may by ordinance provide, the Town shall regulate parking and not permit vehicles to be left on the street in any manner other than at and parallel with the curb and to restrict parking so as to prevent conflicts with moving traffic at intersections and at such other locations as necessary.

9. The Town will provide personnel to administer and supervise construction. The FHWA will participate in the cost of construction supervision provided by the Town at the pro rata established in the Project Agreement for up to 15 percent of the cost of construction. Construction supervision costs not participated in by FHWA shall be borne by the Town. All construction project change orders are to be copied to the State.

10. The Town will complete the project in accordance with approved plans and specifications and the requirements of the relevant State and federal statutes, rules, or regulations. In the event the Town fails to comply with the plans, specifications or any relevant State or federal statutes, rules, or regulations, the Town shall hold the State harmless from any claims or costs incurred by the State as a result of the Town's failure to comply.

11. State employees may perform any inspections of the project or audit any books or records of the Town in order for the State to satisfy itself that the monies on the project have been spent and the project completed in accordance with the plans and specifications, statutes, rules, and regulations of the State and federal government.

### III. MISCELLANEOUS PROVISIONS

1. The State assumes no financial obligation or liability under this agreement. The Town assumes full responsibility for the design, plans and specifications, reports, the engineering in connection therewith, and the construction of the improvements contemplated, cost over-runs and construction claims. It is understood and agreed that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the Town and that the Town hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, the Town, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, expenses of litigation or attorneys' fees.

2. This agreement shall remain in force and effect until completion of the work and related deposits or reimbursements.

3. This agreement shall become effective upon filing with the Secretary of State.

4. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

5. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

6. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

7. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation  
Joint Project Administration  
205 South 17 Avenue, Mail Drop 616E  
Phoenix, AZ 85007

Town of Fountain Hills  
Town Engineer  
16836 E. Palisades Blvd.  
P.O. Box 17958  
Fountain Hills, AZ 85269

8. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

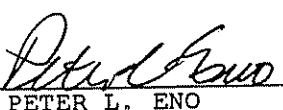
IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

TOWN OF FOUNTAIN HILLS, ARIZONA

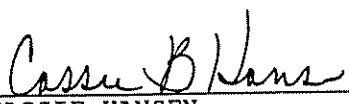
STATE OF ARIZONA

Department of Transportation

By   
JEROLD L. MILES  
Mayor

By   
PETER L. ENO  
Contract Administrator

ATTEST

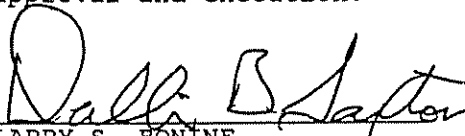
By   
CASSIE HANSEN  
Town Clerk

JPA 96-116

RESOLUTION

BE IT RESOLVED on this 20th day of August 1996, that I, the undersigned LARRY S. BONINE, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Intermodal Transportation Division, enter into an agreement with the Town of Fountain Hills for the purpose of installing bike lane signing and pavement markings.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Contract Administrator for approval and execution.

  
for LARRY S. BONINE  
Director

**TOWN OF FOUNTAIN HILLS  
MINUTES OF THE REGULAR SESSION OF THE  
FOUNTAIN HILLS TOWN COUNCIL  
SEPTEMBER 19, 1996**

A public meeting of the Fountain Hills Town Council was convened and called to order by Mayor Miles at 6:30 P.M., Thursday, September 19, 1996, in the Fountain Hills Town Hall Council Chambers, located at 16836 E. Palisades Blvd., Building B, Fountain Hills, Arizona.

**ROLL CALL** - Following the pledge to the flag led by Ashley Aaron, Megan Ann Perrin, Dava Christman, and Kathryn Christman of Brownie Scouts Troop 1059 and the invocation by Pastor Joel Bjerkstrand from the Shepherd of the Hills Lutheran Church, roll call was taken. Present for roll call were the following members of the Fountain Hills Town Council: Mayor Jerry Miles, and Councilmembers Bill O'Brien, Marianne Wiggishoff, Sid Apps, Al Poma and Penfield Mower. Vice Mayor Lawrence was absent. Also present were Town Manager Paul Nordin, Town Attorney Bill Farrell, Director of Community Development Gary Jeppson and Town Engineer Randy Harrel.

Mayor Miles read the Consent Agenda which contained the following agenda items. Agenda Items #11 and #12 were removed for further discussion.

**AGENDA ITEM #2 - CONSIDERATION OF APPROVING THE MEETING MINUTES OF SEPTEMBER 3RD, 5TH AND 10TH, 1996.**

**AGENDA ITEM #3 - CONSIDERATION OF THE SPECIAL EVENT REQUEST SUBMITTED BY THE SUNSET KIWANIS FOR A DUATHALON TO BE HELD ON SUNDAY, SEPTEMBER 29, 1996. NO STREET CLOSURES WILL BE REQUIRED.**

**AGENDA ITEM #4 - CONSIDERATION OF THE SPECIAL EVENT LIQUOR LICENSE SUBMITTED BY BRUCE CONKLIN FOR THE AMERICAN LEGION POST #58 FOR SATURDAY, SEPTEMBER 28, 1996 FROM 10:00 A.M. TO 6:00 P.M. THE AMERICAN LEGION DESIRES TO HAVE A BEER GARDEN BEHIND THEIR BUILDING DURING THE CELEBRATION OF THEIR GRAND OPENING.**

**AGENDA ITEM #5 - CONSIDERATION OF RESOLUTION 1996-67, CANVASSING THE RESULTS OF THE SPECIAL BOND ELECTION HELD IN AND FOR THE TOWN OF FOUNTAIN HILLS ON SEPTEMBER 10, 1996, AND TO CONSIDER AND ADOPT A RESOLUTION DECLARING THE RESULTS OF SUCH ELECTION.**

**AGENDA ITEM #6 - CONSIDERATION OF AN AMENDMENT TO THE LAW ENFORCEMENT CONTRACT WITH MARICOPA COUNTY SHERIFF'S OFFICE INCREASING THE LEVEL OF SERVICE FROM 1.5 BEATS TO 2.0 BEATS AND INCREASING THE COST FROM \$610,000 TO \$762,234. THIS INCREASE WAS APPROVED IN THE 1996/97 FISCAL BUDGET.**

**AGENDA ITEM #7 - CONSIDERATION OF RESOLUTION 1996-65, ABANDONING WHATEVER RIGHT, TITLE, OR INTEREST THE TOWN HAS IN A PORTION OF EAGLE MOUNTAIN PARKWAY RIGHT-OF-WAY AND WESTWIND DRIVE RIGHT-OF-WAY, AS RECORDED IN BOOK 401 OF MAPS, PAGE 18, RECORDS OF MARICOPA COUNTY, ARIZONA, WITH STIPULATIONS. (EAGLE MOUNTAIN - ROW96-06)**

**AGENDA ITEM #8 - CONSIDERATION OF RESOLUTION 1996-66, ABANDONING WHATEVER RIGHT,**



LOT 32, CASE NUMBER S96-028.

Councilwoman Wiggishoff MOVED to approve the final replat for Lot 32 in Sunridge Canyon Estates. Councilman Apps SECONDED the motion which CARRIED unanimously.

AGENDA ITEM #28 - PRESENTATION OF THE BIKE LANE SIGNING AND STRIPING PROJECTS (FEDERAL AID).

Town Engineer Randy Harrel stated there were numerous wide streets in the town which had an edge lane that could be converted to a bike lane. He explained about the two types of bicycle lanes. The non-exclusive lane would include pedestrian traffic and/or parking and would have reflective markers along the white line. The exclusive lane would allow only bicycles in the line and would be located in areas where sidewalks or frontage roads were available to pedestrians. He stated the Planning & Zoning Commission as well as the Parks & Recreation Commission had supported the concept of bike lanes in the town. He said the federal aid funding of \$19,000 had been approved to allow signing and striping to be completed by the Street Department crew rather than contracted out. The Town would be responsible for matching funds of at least \$1,148 with an approved IGA. Councilman O'Brien asked about the potential for portions of Fountain Hills Boulevard to receive bike lanes. Mr. Harrel responded that certain areas of Fountain Hills Boulevard did not provide adequate width to allow bike lanes.

AGENDA ITEM #29 - CONSIDERATION OF THE INTERGOVERNMENTAL AGREEMENTS WITH ADOT FOR THE BIKE LANE SIGNING AND STRIPING PROJECT.

Councilman O'Brien MOVED to approve the Intergovernmental Agreement with ADOT for the bike lane signing and striping project. Councilman Poma SECONDED the motion which CARRIED unanimously.

AGENDA ITEM #30 - CALL TO THE PUBLIC.

Sharon Hutcheson encouraged more sensitive development and preservation of the terrain. Roy Kinsey expressed his appreciation for the efforts of everyone concerned with the upgrading of the Subdivision Ordinance.

AGENDA ITEM #31 - PURSUANT TO A.R.S. 38-431.03.A.7.; A.R.S. 38-431.03.A.3.; AND A.R.S. 38-431.03.A.3.4.; VOTE TO GO INTO EXECUTIVE SESSION FOR DISCUSSION OR CONSULTATION WITH DESIGNATED REPRESENTATIVES OF THE PUBLIC BODY IN ORDER TO CONSIDER ITS POSITION AND INSTRUCT ITS REPRESENTATIVES REGARDING NEGOTIATIONS FOR THE PURCHASE OR LEASE OF REAL PROPERTY; AND FOR DISCUSSIONS OR CONSULTATION FOR LEGAL ADVICE WITH THE ATTORNEY OR ATTORNEYS OF THE PUBLIC BODY; DISCUSSION OR CONSULTATION WITH THE ATTORNEYS OF THE PUBLIC BODY IN ORDER TO CONSIDER ITS POSITION AND INSTRUCT ITS ATTORNEYS REGARDING THE PUBLIC BODY'S POSITION IN PENDING OR CONTEMPLATED LITIGATION; RESPECTIVELY.

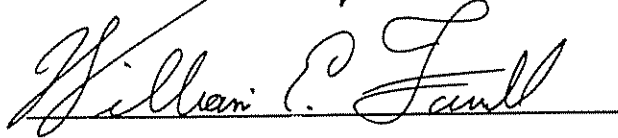
There was no vote to go into Executive Session.

AGENDA ITEM #32 - RETURN TO REGULAR SESSION.

APPROVAL OF THE FOUNTAIN HILLS TOWN ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION and the TOWN OF FOUNTAIN HILLS, and declare this agreement to be in proper form and within the powers and authority granted to the TOWN OF FOUNTAIN HILLS under the laws of the State of Arizona.

DATED this 19<sup>th</sup> day of September 1996.

A handwritten signature in cursive script, reading "William P. Fann", written over a horizontal line.

Town Attorney



GRANT WOODS  
ATTORNEY GENERAL

STATE OF ARIZONA  
OFFICE OF THE ATTORNEY GENERAL  
1275 WEST WASHINGTON, PHOENIX 85007-2926

TRN Main: 542-1680  
Direct: 542-8837  
Fax: 542-3646  
MAIN PHONE: 542-5025  
TELECOPIER : 542-4085

### INTERGOVERNMENTAL AGREEMENT DETERMINATION

A.G. Contract No. KR96-1836-TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 18th day of October, 1996.

GRANT WOODS  
Attorney General

A handwritten signature in black ink, appearing to read "James R. Redpath", is written over a horizontal line.

JAMES R. REDPATH  
Assistant Attorney General  
Transportation Section

JRR:lsr  
[1714]